

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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THOMAS COOK; MEGAN DRESCH; )  
LAURA GALABURDA; JACK GLOVER; ) Civil Action No. 04-12546 GAO  
DAVID HALL; MONICA HILL; JENNY )  
LYNN KOPFSTEIN; JENNIFER McGINN; )  
JUSTIN PEACOCK; JAMES E. )  
PIETRANGELO II; DEREK SPARKS; )  
STACY VASQUEZ, )  
Plaintiffs, )  
v. )  
DONALD H. RUMSFELD, Secretary of )  
Defense; TOM RIDGE, Secretary of Homeland )  
Security; UNITED STATES OF AMERICA, )  
Defendants. )  
\_\_\_\_\_  
)

**DEFENDANTS' MOTION TO DISMISS**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, defendants Donald H. Rumsfeld, Secretary of Defense; Tom Ridge, Secretary of Homeland Security; and the United States of America, hereby moves to dismiss this action for failure to state a claim upon which relief can be granted. The reasons for the foregoing motion are set forth in the accompanying Memorandum of Law.<sup>1</sup>

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<sup>1</sup> Defendants' Memorandum of Law numbers 35 pages, consistent with the request set forth in the Consent Motion for Leave to File Memoranda of Law in Excess of 20 Pages, filed on February 3, 2004.

Respectfully submitted,

MICHAEL J. SULLIVAN  
United States Attorney

By: /s/ Mark T. Quinlivan  
MARK T. QUINLIVAN  
Assistant United States Attorney  
United States Attorney's Office  
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617-748-3606

Dated: February 7, 2005

**CERTIFICATE PURSUANT TO LOCAL RULE 7.1(a)(2)**

Pursuant to Local Rule 7.1(a)(2), I certify that, on January 26 and February 2, 2005, I conferred with co-counsels for the plaintiffs, Jonathan A. Shapiro, Esq., and Stuart F. Delery, Esq., regarding this motion. Mr. Shapiro and Mr. Delery indicated that plaintiffs would oppose this motion.

/s/ Mark T. Quinlivan  
MARK T. QUINLIVAN  
Assistant United States Attorney